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via electronic mail

Tim Hall
California Integrated Waste
Management Board
1001 I Street
Sacramento, CA 95814
timothyh@ciwmb.ca.gov

Dmitri Smith
California Integrated Waste
Management Board
1001 I Street
Sacramento, CA 95814
dsmith@ciwmb.ca.gov

Subject: Cal/EPA EJ Action Plan Implementation: Preliminary Comments regarding the Definition of "Precautionary Approach"

Dear Mr. Hall and Mr. Smith:

The Consumer Specialty Products Association ("CSPA") appreciates the opportunity to provide comments on the proposed definition of "precautionary approaches" or "precautionary approach" under Cal/EPA's Environmental Justice Action Plan (the "EJ Action Plan"). CSPA supports the comments recently submitted by the California Council for Environmental and Economic Balance. In particular, CSPA urges the California Integrated Waste Management Board ("Board") to consider the following recommendations as you deliberate on these very important definitions.

In general, CSPA supports Cal/EPA's effort to define these terms under the EJ Action Plan. However, CSPA would like to call your attention to the fact that Cal/EPA's Advisory Committee on Environmental Justice recognized that the BDOs already use a precautionary approach in many of their programs.

STATEMENT OF INTEREST

CSPA is a voluntary, non profit national trade association representing approximately 240 companies engaged in the manufacture, formulation, distribution, and sale of chemical specialties products for household, institutional, commercial and industrial use. CSPA member companies' wide range of products includes home, lawn and garden pesticides, antimicrobial products, air care products, automotive specialty products, detergents and cleaning products, polishes and floor maintenance products, and various types of aerosol products. These products are formulated and packaged in many forms and are generally marketed nationally.

COMMENTS

CSPA believes that environmental justice programs should use clearly defined terms. Clear terms allow Cal/EPA and stakeholder groups to have a common understanding of agency environmental justice policies. Using these guidelines, CSPA suggests that Cal/EPA employ the following definition for "precautionary approach":

Precautionary approach means the application of judicious and responsible decision making based on best available science and on the weighing of the level of scientific uncertainty and the potential risk of damage. A precautionary approach is based on the recognition that the absence of full scientific certainty shall not be used as a reason for postponing decisions where there is a risk of serious or irreversible harm.

This statement is based on language from the document that Cal/EPA has referenced in the recent workshops from the U.S. Commission on Ocean Policy and the Canadian document entitled “A Framework for the Application of Precaution in Science-Based Decision Making About Risk.”

In addition to establishing a reasonable definition of “precautionary approach” it is equally important to establish guidelines to ensure that the Action Plan will be implemented in a rational, and objective manner. CSPA understands that Cal/EPA is developing the definition at this time and plans to develop guidelines a later date; however, we thought it would be constructive to offer some initial suggestions regarding the guidelines:

- Criteria for triggering the precautionary approach should be clear and science-based; mere speculation about potential harm should **not** trigger review under the precautionary approach.
- Once review under the precautionary approach is triggered, the first level of decision is whether agency action is needed.
 - If action is needed, the appropriate action will depend on the level of scientific uncertainty about the potential risk of damage. The action should be targeted at the sources of the risk in an equitable fashion.
 - If agency action is needed, the appropriate action can be selected from a range of actions depending on the level of scientific uncertainty and the potential risk of damage. Such actions may include:
 - information and guidance;
 - public awareness / involvement / education campaigns,
 - research, monitoring or further data collection;
 - incentive programs;
 - command and control regulations; and
 - risk reduction programs including the selection of pollution prevention practices by businesses.
- Process should be transparent.
- Precautionary approach should take into account the **benefits** of the activity or project in determining the appropriate action.

- Required measures should be reasonably feasible, cost-effective and equitable.
- The process should recognize that it is impossible to prove a negative (*i.e.*, the complete absence of health risk).
- Fair and consistent application is important.
- Environmental program decisions have impacts beyond environmental protection. While protecting public health and the environment, Cal/EPA needs to avoid decisions that harm the business climate and the retention and creation of jobs.

Cal/EPA's existing programs have been very successful in improving environmental protection. Cal/EPA should not move away from the current, effective path of focusing on documented environmental problems. In addition, as the BDOs identify potential gaps in current precautionary programs and take steps to address those gaps, it is critical that the agencies be cognizant of the benefits of the product or operation involved and potential impacts on business climate and job creation and retention.

CSPA looks forward to continued discussions with Cal/EPA and CIWMB staff and other stakeholders on these issues. If you have any questions, or if you would like to discuss the comments, please contact me at 202-872-8110.

Respectfully submitted,



William L. Lafield
Vice President, State Affairs and Communications

cc: The Honorable Terry Tamminen tt@calepa.ca.gov
The Honorable James Branham jbranham@calepa.ca.gov
Tam M. Doduc, P.E. tdoduc@calepa.ca.gov
Laurie E. Nelson, Randlett/Nelson Associates nelson@randlettnelson.com